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OFFICE OF PETITIONS

In re Application of  
Brian Froehler et al  
Application No. 10/024,818  
Filed: December 18, 2001  
Attorney Docket No. GLIS-0143

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: DECISION ON PETITION  
: UNDER 37 CFR 1.78(a)(3)  
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This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 19, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;<sup>1</sup>
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on December 18, 2001 and was pending at the time of filing of the instant petition.

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<sup>1</sup> Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

The instant petition does not comply with item (1)

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) cannot be granted.

By fax: (703) 872-9306  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859 .

A handwritten signature in cursive script that reads "Karen Creasy".

Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy